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TRANSMITTAL OF APPEAL BRIEF

Docket No.
SON-1680

In re Application of: Yoshiyuki Nakamura et al.

Application No.
09/430,124-Conf. #6811

Filing Date
October 29, 1999

Examiner
P. N. Hoang

Group Art Unit
2126

Invention: SYSTEM FOR TRANSFERRING DATA BETWEEN APPLICATION SYSTEMS

TO THE COMMISSIONER OF PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed: May 6, 2003

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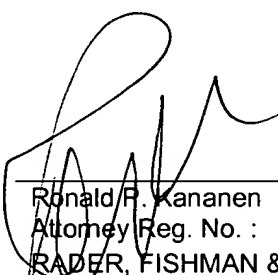
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Dated: May 11, 2004



Docket No.: SON-1680
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yoshiyuki Nakamura, et al.

Application No.: 09/430,124

Group Art Unit: 2126

Filed: October 29, 1999

Examiner: Phuong N. Hoang

For: SYSTEM FOR TRANSFERRING DATA
BETWEEN APPLICATION SYSTEMS

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APPELLANT'S BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a renewed brief is in furtherance of the Notice of Appeal, filed in this case on May 6, 2003, and is made further to the reopening of prosecution by the examiner according to the office action dated February 11, 2003 (Paper No. 15).

The fees required under § 1.17(f) and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is transmitted in triplicate.

This brief contains items under the following headings as required by 37 C.F.R. § 1.192 and M.P.E.P. § 1206:

- I. Real Party In Interest
- II Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Invention
- VI. Issues
- VII. Grouping of Claims
- VIII. Arguments

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IX. Claims Involved in the Appeal

Appendix A Claims

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Sony Corporation of Tokyo, Japan ("Sony"). An assignment of all rights in the present application to Sony was executed by the inventor and recorded by the U.S. Patent and Trademark Office at **reel 010559, frame 0822**.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 4 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 1-3
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 4-7
4. Claims allowed: none
5. Claims rejected: 4-7

C. Claims On Appeal

The claims on appeal are claims 4-7

IV. STATUS OF AMENDMENTS

An Amendment was filed subsequent to the first Office Action dated September 24, 2002 (Paper No. 7). The Examiner responded to the Amendment with a final Office Action dated February 13, 2003 (Paper No. 9), in which all pending claims 4-7 were finally rejected. No Amendment after the final Rejection that is the subject of this Appeal was filed. An Examiner's Answer was issued on September 22, 2003 (Paper No. 12), followed by a Reply Brief on November 21, 2003. Prosecution was reopened with a non-final Office Action dated February 1, 2004 (Paper No. 15). No Amendment is made in response to the new rejections, which are the subject of this renewed Appeal Brief.

The claims in the Appendix represent the state of the claims as pending.

V. SUMMARY OF INVENTION

Claim 4 recites a mediating system 20 centrally located among “n” application systems 10 respectively operated within an operation operating environment and being configured to support data transfers among the application systems 10, comprising: one data entry (see Fig. 5) connected to each of said “n” application systems 10; “n” data exits (see Fig. 5) connected respectively to said respective “n” application systems 10; a transmission function group (see, for example, 108 in Fig. 6 and Figs. 2-4) linked to said one data entry and to said “n” data exits for receiving data originated from one of said “n” application systems and for transmitting the data received through said data entry to a destination application system among said “n” application systems; and a transmission path determination function group (see Fig. 4) for selectively determining said destination application system among said “n” application systems in accordance with a destination name attached to the data received through said data entry.

Claim 6 recites a mediating system 20 centrally located among a plurality of application systems 10, the mediating system configured to support data transfers among the application systems, comprising: a data entry (see Fig. 5) connected to each application system; a plurality of data exits (see Fig. 5), each data exit connected to a corresponding application system; a transmission function group (see, for example, 108 in Fig. 6 and Figs. 2-4) linked to said data entry connected to a first application system and to at least one of said data exits connected to a second application system for receiving data originated from said first application system and for transmitting the data received through said data entry to the second application system; and a transmission path determination function group (see Fig. 4) for selectively determining said second application system among said plurality of application systems in accordance with a destination name attached to the data received through said data entry.

Accordingly, the mediating system 20, also known as a broker, of claim 4 includes one data entry and “n” data exits. The mediating system 20 of claim 6 has a plurality of data exits corresponding to the plurality of application systems 10. In this manner, the mediating system has one data entry that can receive data from each of the application systems, and when the destination is determined, the data exits the data exit corresponding to the application system.

Each CPU shown in Fig. 1, for example, is defined as a separate application system 10. Two or more application systems 10 create a system operating environment, so long as the two applications systems 10 can transfer data between themselves. The broker 20 is placed in this system operating environment.

VI. ISSUES

1. Whether the Examiner erred in rejecting claims 4-7 under 35 U.S.C. §102(b) as being anticipated by U. S. Patent 5,329,619 to Page et al. (Page et al. '619)?
2. Whether the Examiner erred in rejecting claims 4-7 under 35 U.S.C. §102(e) as being anticipated by U. S. Patent 5,987,508 to Agraharam et al. (Agraharam et al. '508)?

VII. GROUPING OF CLAIMS

For purposes of this appeal brief only, and without conceding the teachings of any prior art reference, the claims have been grouped as indicated below:

Group Claim(s)

- I. Claims 4-5 stand or fall together with respect to the §102 rejection;
- II. Claims 6-7 stand or fall together with respect to the §102 rejection.

In Section VIII below, Applicant has included arguments supporting the separate patentability of each claim group as required by 37 C.F.R. 1.192(c)(7). See, for example, M.P.E.P. § 1206.

VIII. ARGUMENTS

In the Office Action of February 11, 2004 (Paper No. 15), the following rejections were presented by the Examiner:

- (i) 35 U.S.C. §112, first paragraph

None

- (ii) 35 U.S.C. §112, second paragraph

None

- (iii) 35 U.S.C. §102

- (1) The Examiner rejected claims 4-7 under 35 U.S.C. §102(b) as being anticipated by Page et al. '619.
- (2) The Examiner rejected claims 4-7 under 35 U.S.C. §102(e) as being anticipated by Agraharam et al. '508.

- (iv) 35 U.S.C. §103

None.

- (v) Other

None

For at least the following reasons, Appellant submits that this rejection is both technically and legally unsound and should therefore be reversed.

(i) 35 U.S.C. §112, first paragraph

None

(ii) 35 U.S.C. §112, second paragraph

None

(iii) 35 U.S.C. §102

(1) The Office Action rejected claims 4-7 under 35 U.S.C. §102(e) as being anticipated by Page et al. '619 in paragraph 4 of the Office Action (Paper No. 15). Appellant respectfully traverses this rejection.

As discussed above, the mediating system 20, also known as a broker, of claim 4 includes one data entry and “n” data exits. The mediating system 20 of claim 6 has a plurality of data exits corresponding to the plurality of application systems 10. In this manner, the mediating system has one data entry that can receive data from each of the application systems, and when the destination is determined, the data exits the data exit corresponding to the application system.

Each CPU shown in Fig. 1, for example, is defined as a separate application system 10. Two or more application systems 10 create a system operating environment, so long as the two applications systems 10 can transfer data between themselves. The broker 20 is placed in this system operating environment.

Page et al. '619 discloses an object interface that supports three modes of inter-object communications. A service broker “manages service requests from, and responsive services provided by, a plurality of clients and servers, respectively...” See Abstract. “The broker manages

the service offerings from servers and service requests from clients, and clients and servers communicate and exchange information with one another via the broker.” See Abstract. “The service broker includes different application programming interfaces for allowing participants to access the functionality of the service broker.” See Abstract.

It can be readily seen that Page et al. ‘619 discloses and teaches that the broker has multiple application program interfaces (APIs) specific to the type of request being made by a client of the broker, and that Page et al. ‘619 is a store and forward service broker system.

This is clearly contrasted by the claimed element of the mediating system having one data entry connected to each of the n operating systems. See claims 4 and 6. That is, while Page et al. ‘619 allows a client multiple broker access points, the present claims do not.

The Office Action attempts to map the claim elements, for example, that Page et al. ‘619 at column 40, lines 10-22 address this claim limitation. However, Page et al. ‘619 recites that the SEND “function is used by participants to send a service request (or a response to a service request) to the broker for subsequent receive processing.” However, the Office Action has not made any attempt to explain how a SEND function is the same as or equivalent to “one data entry connected to each of said “n” application systems,” or “a data entry.” The Office Action discussed the rejection from the perspective of the client sending something to the broker, and that the client possibly has a singular output to the broker. However, as discussed in the abstract of Page et al. ‘619, the broker “includes different application programming interfaces for allowing participants to access the functionality of the service broker.” That is, the broker has more than one API that clients can interface with. Stated differently, the Office Action has not demonstrated that the broker has a single entry point for receiving multiple input from n clients.

Still further, Page et al. ‘619 indicate in Fig. 8 that that there is more than one input interface to the FSP/Broker.

Still further, Page et al. ‘619 discloses that the received message enters a message queue. As acknowledged in the Office Action, this is a store and forward system, the office action correctly points out that each participant has a message queue. Additionally, the message queue of Page et al. ‘619 allows a client to retrieve a message after it has been notified that a message is in the message queue. However, Appellant is not claiming a message queue.

Still further, the Office Action alleges that a send and receive command of Page et al. ‘619 is

the claimed transmission function group. However, as discussed above, the send command has already been used by the examiner to function as the one data entry connected to each of the “n” application systems. Still further, the claimed transmission function group is linked to the one data entry and to the “n” data exits. This element is not disclosed, taught or suggested in Page et al. ‘619. Rather, Page et al. ‘619 discloses that the send command is issued by a client in response to notification that there is a message in the queue. See column 47, lines 15-35 discussing non-conversational (connectionless) communication.

The claim mapping shown in the Office Action does not explain how the disparate terms of Page et al. ‘619 correspond to the claim elements. Rather, the claim mapping attempts to allege a prima facie showing of anticipation without clear explanation of the relationship between the disclosure of Page et al. ‘619 and the claim elements. When the claims are read in view of the specification, the rejection cannot rise to a prima facie level of anticipation.

The Examiner has the burden of presenting a prima facie case of anticipation. See In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138-139 (Fed. Cir. 1986); In re Wilder, 429 F.2d 447, 450, 166 USPQ 545, 548 (C.C.P.A. 1970). Additionally, the claim must first be correctly construed to define the scope and meaning of each contested limitation. See In re Paulsen, 30 F.3d 1475, 1479, 31 USPQ 2d 1671, 1674 (Fed. Cir. 1994). As discussed above, the Examiner has incorrectly construed the claims to define their scope and meaning. Accordingly, this rejection is improper and the rejection should not be sustained.

A document can only anticipate a claim if the document discloses, explicitly or implicitly, each and every feature recited in the claim. Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Since Page et al. ‘619 fail to disclose, either explicitly or implicitly, at least the above-noted feature recited in independent claims 4 and 6, Page et al. ‘619 cannot anticipate the claims. At least in view of the foregoing, claims 4 and 6 are allowable, and the rejection should not be sustained.

Claims 5 and 7, depending from claims 4 and 6, respectively, are also allowable for the elements they recite, as well as depending from allowable base claims. Withdrawal of this rejection is respectfully requested.

(2) The Office Action rejected claims 4-7 under 35 U.S.C. §102(e) as being anticipated by Agraharam et al. '5 in paragraph 10 of the Office Action (Paper No. 15). Appellant respectfully traverses this rejection.

Agraharam et al. '508 discloses a method of providing cross-service connectivity between use of the telephone network and use of an email network. A recipient of an email message receives email messages through an alias email address which is directly associated with the recipients telephone number. A sender addresses an email message to the recipient to that alias email address using the recipients' alias telephone number name. A message addressed to the alias email address is sent to a translation server at that known domain name, where the alias telephone number-recipient name is translated to the actual name and associated domain name server, and the message is forwarded to that recipient at that actual email address. See abstract. Stated differently, Agraharam et al. '508 allows a user to utilize a known telephone number as an email address. Using a telephone number/email address look up table, the email message is routed to an email address that corresponds to the telephone number.

The Office Action at paragraph 11 begins to map Agraharam et al. '508 to the claims. However, the fallacy of this mapping, as discussed above, is the failure of the Office Action to explain how the applied reference elements equate to or are equivalent to the claim elements.

For example, the Office Action alleges that one data entry connected to each of said "n" application systems is shown in the reference as a client terminal sending messages using telephone number alias names to the translation server. However, as discussed above, the Office Action has not made any attempt to explain how a SEND function is the same as or equivalent to "one data entry connected to each of said "n" application systems," or "a data entry." As discussed above with respect to Page et al. '619, this is all from the perspective of the client sending something to the broker, and that the client possibly has a singular output to the broker. Accordingly, the Office Action has not demonstrated that the broker has a single entry point for receiving multiple input from n clients.

The claim mapping shown in the Office Action does not explain how the disparate terms of Agraharam et al. '508 correspond to the claim elements. Rather, the claim mapping attempts to

allege a prima facie showing of anticipation without clear explanation of the relationship between the disclosure of Agraharam et al. '508 and the claim elements.

The Examiner has the burden of presenting a prima facie case of anticipation. See In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138-139 (Fed. Cir. 1986); In re Wilder, 429 F.2d 447, 450, 166 USPQ 545, 548 (C.C.P.A. 1970). Additionally, the claim must first be correctly construed to define the scope and meaning of each contested limitation. See In re Paulsen, 30 F.3d 1475, 1479, 31 USPQ 2d 1671, 1674 (Fed. Cir. 1994). As discussed above, the Examiner has incorrectly construed the claims to define their scope and meaning. Accordingly, this rejection is improper and the rejection should not be sustained.

A document can only anticipate a claim if the document discloses, explicitly or implicitly, each and every feature recited in the claim. Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Since Agraharam et al. '508 fail to disclose, either explicitly or implicitly, at least the above-noted feature recited in independent claims 4 and 6, Agraharam et al. '508 cannot anticipate the claims. At least in view of the foregoing, claims 4 and 6 are allowable, and the rejection should not be sustained.

Claims 5 and 7, depending from claims 4 and 6, respectively, are also allowable for the elements they recite, as well as depending from allowable base claims. Withdrawal of this rejection is respectfully requested.

(iv) **35 U.S.C. §103**

None.

(v) **Other**

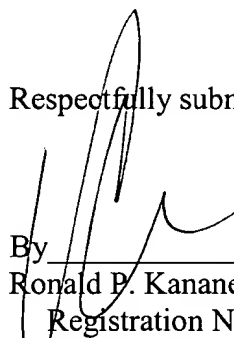
None

CONCLUSION

In view of the foregoing reasons, Appellant submits that the final rejection of claims 4-7 is improper and should not be sustained. Therefore, a reversal of the Rejections of February 11, 2004, as to claims 4-7, is respectfully requested.

Dated: May 11, 2004

Respectfully submitted,



By _____
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IX. Claims Involved in the Appeal

APPENDIX A

Claims Involved in the Appeal of Application Serial No. 09/430,124

Claims 1-3: Cancelled

4. (Previously added) A mediating system centrally located among “n” application systems respectively operated within an operation operating environment and being configured to support data transfers among the application systems, comprising:

one data entry connected to each of said “n” application systems;

“n” data exits connected respectively to said respective “n” application systems;

a transmission function group linked to said one data entry and to said “n” data exits for receiving data originated from one of said “n” application systems and for transmitting the data received through said data entry to a destination application system among said “n” application systems; and

a transmission path determination function group for selectively determining said destination application system among said “n” application systems in accordance with a destination name attached to the data received through said data entry.

5. (Previously added) The mediating system of claim 4, further comprising:

a database for storing destination names; and

adaptor means inserted between each of said “n” application systems for supporting connection between the mediating system and the destination application system.

6. (Previously added) A mediating system centrally located among a plurality of application systems, the mediating system configured to support data transfers among the application systems, comprising:

a data entry connected to each application system;

a plurality of data exits, each data exit connected to a corresponding application system;

a transmission function group linked to said data entry connected to a first application system and to at least one of said data exits connected to a second application system for receiving data originating from said first application system and for transmitting the data received through said data entry to the second application system; and

a transmission path determination function group for selectively determining said second application system among said plurality of application systems in accordance with a destination name attached to the data received through said data entry.

7. (Previously added) The mediating system of claim 6, further comprising:

a database for storing destination names; and

an adaptor situated between each of said application systems, wherein each of said adaptor supports connection between the mediating system and the second application system.